

**JOINT USE, OPERATING,
AND TRANSFER AGREEMENT
AMONG
THE GEORGE W. BUSH FOUNDATION
AND
NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
AND
NATIONAL ARCHIVES TRUST FUND BOARD
REGARDING
THE GEORGE W. BUSH PRESIDENTIAL LIBRARY**

This Joint Use, Operating, and Transfer Agreement (“Joint Use Agreement” or “Agreement” or “JUA”) for the George W. Bush Presidential Library at the George W. Bush Presidential Center is entered into by and among The George W. Bush Foundation (“Foundation”), a Texas nonprofit corporation, the National Archives and Records Administration (“NARA”), an independent establishment in the executive branch of the Government of the United States of America, and the National Archives Trust Fund Board, a statutorily created entity established to support activities in the interest of the national archival and records activities administered by NARA.

RECITALS

- A.** NARA is administered under the supervision and direction of the Archivist of the United States (“Archivist”). When the Archivist considers it to be in the public interest, the Archivist may, pursuant to 44 U.S.C. § 2112(a)(1), make agreements, upon terms and conditions the Archivist considers proper, with a State, political subdivision, or foundation to use as a “Presidential archival depository” land, a facility, and equipment of the State, subdivision, or foundation, to be made available by it without transfer of title to the United States; and to maintain, operate, and protect the depository. This is the authority by which NARA accepts and operates presidential libraries and museums.
- B.** The Foundation is organized and operated exclusively for charitable and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code (the “Code”), 26 U.S.C. § 501(c)(3), as amended, and is a publicly-supported organization within the meaning of section 509(a)(1) of the Code. The Foundation’s charitable purposes include operating, maintaining and endowing the George W. Bush Presidential Center (“Bush Center” or “Center”), and providing

financial and other support to the George W. Bush Presidential Library (“Bush Library”) (formerly the George W. Bush Presidential Library and Museum).

- C. In 2010, the Foundation entered into a series of agreements with Southern Methodist University in Dallas, Texas (“SMU”) (collectively, the “SMU-Foundation Agreement”), including a 99-year ground lease agreement (“Lease Agreement”) for a parcel of real property referred to in the lease and this Joint Use Agreement as “the Premises.” The Premises consist of approximately 23.2 acres of real property. The Foundation may, at its option, renew the lease up to six times, with each renewal option having a 25-year term.
- D. The SMU-Foundation Agreement authorized the Foundation to construct a building (“the Bush Center Building” or “Center Building”) and related improvements (“Improvements”) on the Premises to house the Bush Center and a Presidential library and museum. The Improvements include parking and landscaped areas directly adjacent to the Center Building (e.g., the Texas Rose Garden). Other Improvements, referred to herein as the “Texas Native Park,” have been landscaped using native Texas habitats and function, along with the other Improvements, as an urban park developed to engage a broad range of users, including museum and special event visitors, SMU students, faculty and staff, and the community.
- E. The Foundation built and equipped the Center Building and the Improvements and, on April 24, 2013, it entered into a Joint Use, Operating, and Transfer Agreement (“the Original Joint Use Agreement” or “the Original JUA”) with NARA. The Original JUA granted NARA the exclusive right to use 89,640 gross square feet of space in the Bush Center Building (of a total 210,864 gross square feet), including 60,972 net usable square feet (out of a total 140,941 net usable square feet), and the “operating equipment” located therein, to establish, maintain, operate, and protect the George W. Bush Presidential Library and Museum as the Presidential archival depository relating to the Presidency of George W. Bush. The Foundation delivered possession of the Library and Museum to NARA on April 24, 2013, and on April 25, 2013, the Bush Center and Bush Library and Museum were publicly dedicated. The Museum opened to the public on May 1, 2013.
- F. The transfer of the Bush Library and Museum in April 2013 was the culmination of the statutory process in 44 U.S.C. § 2112 that NARA must follow in establishing Presidential archival depositories. The process included: a report by the Archivist to both Houses of Congress on the proposed Bush Library and Museum; a period of time during which Congress could consider and, if it chose, act in some way on the

Archivist's report (Congress took no action); the construction and furnishing of a facility in compliance with NARA's architectural and design standards for Presidential libraries; and the establishment in the National Archives Trust Fund of an endowment to help defray NARA's cost of operating the Library and Museum. The endowment was calculated using the formula in 44 U.S.C. § 2112(g), and the Foundation transferred the required amount – \$9,763,162 – to the National Archives Trust Fund prior to the execution of the Original JUA and transfer of the Bush Library and Museum to NARA's control.

- G. The Foundation placed a number of conditions on NARA's exclusive right to use space in the Bush Center Building for the Bush Library and Museum, including two conditions that, if met, would result in control over some or all of the space reverting to the Foundation. The first condition held that, "in the event the Archivist chooses or is otherwise compelled by presidential or congressional authority to stop operating the Museum Exhibit Galleries as part of the Bush Library, NARA's exclusive right to the Museum Exhibit Galleries (and their relevant support areas including, but without limitation the Volunteer Lounge and Office) shall revert to a non-exclusive right of access and transit in support of NARA's remaining Library operations and the Museum Exhibit Galleries shall become part of the Bush Center [i.e., under the Foundation's exclusive control]." The second condition or reversionary clause provided "further that NARA's exclusive rights in the remainder of the Library shall continue undisturbed until such time as NARA may cease to operate said remainder as a Presidential archival depository relating to the Presidency of George W. Bush, in which event the remaining exclusive rights granted herein shall terminate and all rights and privileges appurtenant thereto shall revert to the Foundation."
- H. The Archivist has determined it is in the best interest of the Government to stop operating the Museum Exhibit Galleries, the classrooms (including the situation room space) and educational support spaces (collectively, the "Education Spaces"), the Library's former Sensitive Compartmented Information Facility (SCIF), and the other Foundation Reversionary Spaces identified in Section 3.i. of this Agreement. The Original JUA provides for the reversion of the Museum Exhibit Galleries, the Volunteer Lounge and Office, and related support areas if NARA stops operating the Museum Exhibit Galleries as part of the Bush Library. However, the reversion of the Education Spaces and the former SCIF as standalone spaces are not addressed in the Original JUA. Further, the authority granted to the Archivist under 44 U.S.C. § 2112 only provides for the acceptance of property and does not expressly consider the reversion or other divestiture of title in real or personal property. Therefore, upon agreement with the Foundation and pursuant to 44 U.S.C. § 2112, NARA will

submit a report to Congress proposing and justifying the transfer of the Foundation Reversionary Spaces. If Congress does not act within 60 days of continuous session beginning on the date that NARA submits its report, the Museum Exhibit Galleries, Volunteer Lounge and Office, the Education Spaces, the former SCIF, and the other Foundation Reversionary Spaces will revert to a non-exclusive right of access and transit in support of NARA's remaining Library operations and become part of the Bush Center as of the Effective Date of this Joint Use Agreement. The Foundation intends to use the Museum Exhibit Galleries and other spaces to operate, staff and maintain, at its cost and under its sole control, a Museum on the life and presidency of George W. Bush and for other purposes it deems appropriate.

- I. The Bush Library will continue to operate as a wholly federal facility located within the larger Bush Center complex. As part of the U. S. Government, NARA exercises control at all times over the Bush Library and its authorized activities. The Bush Library will, at all times, retain a legal identity separate from the Bush Center in order to conform to federal law and enable citizens to know when they are interacting with their Government.
- J. The purpose of the Bush Library is to house, preserve, and make available to the public the Presidential records and historical materials of President George W. Bush using archival research facilities and educational, public, and other programming. As part of its authorized activities, the Bush Library will loan its holdings to the Foundation for use in Foundation exhibits pursuant to NARA's normal loan processes.
- K. Consistent with the foregoing, the Parties desire to update, modify, amend and restate their agreement with respect to (1) certain exclusive and other rights NARA has to maintain and operate the Bush Library, (2) the acceptance by the Foundation of the applicable reversionary spaces that the Archivist, on behalf of NARA, has ceased to operate, (3) the retention of certain rights by the Foundation for the purpose of furthering its operation of the Bush Center; and (4) the terms and conditions under which NARA and the Foundation will use the Library and the Center as independent legal persons and in furtherance of their respective missions. A mutually acceptable, qualified third-party consultant was engaged to measure the Foundation Reversionary Spaces described in this Agreement and outlined in Exhibit B-1 to this Agreement, and this information was used to calculate the total net usable square footage of such spaces.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, the Parties covenant and agree as follows:

AGREEMENT

1. Truth of Recitals. The Parties acknowledge and agree that the matters set forth in the Recitals to this Joint Use Agreement are true and correct.

2. Entirety. This Joint Use Agreement constitutes the entire understanding of the Parties with respect to the matters addressed herein. This Agreement supersedes and replaces any prior or contemporaneous documents, correspondence, conversations, agreements, and other written or oral understandings between the Parties as to the matters addressed herein, including without limitation the Original JUA (except for reference or other specific purposes); the February 2012 Agreement regarding the Bush Library's name, seal, logo, symbol, trademark and/or service mark; and the 2015 and 2017 Memoranda of Understanding Regarding the Sale of Tickets at the Admission Desk.

3. Meaning of Certain Terms. For purposes of this Joint Use Agreement, and to ensure uniform understanding among the Parties, the terms set forth below in this section will have the following meanings:
 - a. "Effective Date"—This Joint Use Agreement shall become effective on the first day of the first full month following the expiration of 30 calendar days after the earlier of (i) the date on which NARA receives final approval from Congress (including all relevant Congressional Committees) or (ii) the end of the Congressional review period (if all Committees do not respond) after NARA submits its reversion proposal to Congress, as provided in paragraph H of the recitals.

 - b. "NARA" – Unless the context otherwise requires, references to NARA mean the National Archives and Records Administration, the George W. Bush Presidential Library, the National Archives Trust Fund Board ("Trust Fund Board"), or all three collectively; and include all authorized officials, employees, agents, independent contractors, volunteers, or other persons or groups acting for NARA or on its behalf.

- c. “Foundation” or “Bush Foundation” – Unless the context otherwise requires, these terms mean The George W. Bush Foundation and include all authorized officers, directors, employees, persons, or groups acting for the Foundation or on its behalf.
- d. “Parties” – Unless the context otherwise requires, the term Parties in this Joint Use Agreement means NARA and the Foundation, individually and collectively.
- e. “The George W. Bush Presidential Center” or “Bush Center” – Unless the context otherwise requires, these terms mean (i) all areas within the Bush Center Building that are not part of the Bush Library (Section 3.f.); plus (ii) all areas of the Premises external to the Center Building, including the Parking Areas and other Improvements. These terms are also used by the Foundation to refer collectively to itself. References to the Bush Center also include the equipment located within the Bush Center. Exhibit B-1 of this Joint Use Agreement reflects the spaces within the Bush Center Building that comprised the Bush Center prior to the Effective Date and the spaces that comprise the Bush Center on and after the Effective Date.
- f. “Bush Library” or “the Library” – Unless the context otherwise requires, these terms mean the areas within the Bush Center Building to which the Foundation has granted NARA exclusive rights. These areas comprise the “presidential archival depository” for George W. Bush pursuant to 44 U.S.C. § 2101(1) (full name prior to the Effective Date: “George W. Bush Presidential Library and Museum”; full name on and after Effective Date: “George W. Bush Presidential Library”). The Bush Library also includes the “Library Equipment” located within the Library (Section 3.u.). The areas comprising the Bush Library on and after the Effective Date include without limitation: administrative, staff, and contractor offices; the break rooms for NARA staff and contractors; research rooms; archival processing and storage areas; artifact storage and processing areas; audiovisual holdings storage and processing areas; the Library’s loading dock; the isolation room; the staff conference room; the computer server room; the main security room; and the elevators and restrooms reflected on Exhibit B-1 to this Agreement. It also includes those electrical, HVAC, and mechanical rooms that impact the areas identified in this subsection or for which NARA

determines require its control for security purposes. The spaces comprising the Bush Library on and after the Effective Date are reflected on Exhibit B-1 of this Joint Use Agreement.

- g. “Museum”—Unless the context otherwise requires, this term means the space and activities associated with the Museum Exhibit Galleries (including the Front Lobby Exhibit Cases) and their relevant support areas, including but not limited to the Volunteer Lounge and Office, the exhibit preparation and production shop, and the museum control rooms. It also includes those electrical, HVAC, and mechanical rooms that impact the areas identified in this subsection and for which NARA has determined it does not require control for security purposes (the “Building Management Spaces”). The Museum is a Foundation Reversionary Space and, as of the Effective Date, part of the Bush Center.
- h. “Museum Exhibit Galleries” – The term Museum Exhibit Galleries means the Permanent Exhibit Gallery, the Bradford M. Freeman Exhibit Gallery, and the Front Lobby Exhibit Cases (“Front Lobby Exhibit Cases”). The Museum Exhibit Galleries are part of the Museum.
- i. “Foundation Reversionary Spaces”—The term means the Museum (as defined in Section 3.g. herein), the Museum Exhibit Galleries, the Education Spaces, the Building Management Spaces and the Library’s former Sensitive Compartmented Information Facility (SCIF) in the Bush Center that reverted to the Foundation’s control as of the Effective Date. The total area of the Foundation Reversionary Spaces as reflected on Exhibit B-1 to this Agreement is 28,286 net usable square feet out of an estimated gross square footage of 42,319, which includes the gross square footage of the Building Management Spaces.
- j. “Bush Center Building” or “the Center Building” – These terms mean the building constructed by the Foundation to house the Bush Library and the Bush Center.
- k. “Improvements” – The term Improvements means the landscaped areas and other physical improvements that are located on the Premises, other than the Center Building. The Improvements are part of the Bush Center and include

without limitation the Parking Areas, the Native Texas Park, and the areas known as the "Fountains," the "Carolyn and David Miller Amphitheater," the "Texas Rose Garden," the "Ceremonial Drive," the "Ceremonial Courtyard," the "South Terrace" and the "Security Walls."

- l. "Parking Areas" – The term Parking Areas means the Parking Garage, the Northwest Parking Area, the Northeast Parking Area, and the Southeast Parking Area. The Parking Areas are part of the Improvements and the Bush Center.
- m. "Southeast Parking Area" – The Southeast Parking Area includes parking for NARA employees and two contractor spaces. The Southeast Parking Area is located immediately adjacent to the Center Building and contains 29 secure parking spaces (spaces 1-29) and 6 unsecure parking spaces (30-35) reserved for NARA's use. Section 5.f. addresses the Parties' rights in and the use of the Southeast Parking Area.
- n. "Freedom Hall" – The term Freedom Hall means the multi-purpose special event and activity space located directly adjacent to and south of the Front Lobby. Freedom Hall is part of the Bush Center.
- o. "Front Lobby" – The Front Lobby is the area used by visitors and others to enter the Center Building, Freedom Hall, the Museum, and the Bush Library. The Front Lobby contains a static security guard post operated by NARA, the Front Lobby Exhibit Cases, and the Box Office. The Front Lobby Exhibit Cases reverted to the Foundation's control as of the Effective Date. The entire Front Lobby is now part of the Bush Center. Section 5.d. addresses NARA's rights in and use of the Front Lobby.
- p. "Box Office" – The Box Office, previously the "Information Desk", is located in the Front Lobby and is part of the Bush Center. The Foundation uses the Box Office to provide information to visitors and to support its Museum and rental operations, including the sale of admission tickets and Foundation Memberships, and attendance control.

- q. “Native Texas Park” – The term Native Texas Park, originally referred to as the “Texas Habitat Areas”, means the approximately 20 acres of parkland adjacent to the Bush Center Building. The Native Texas Park is part of the Bush Center.
- r. “Texas Rose Garden” – The Texas Rose Garden, possessing the same proportions, solar orientation, and formal organization as the White House Rose Garden, references one of the landscapes most famously associated with the Presidency. The Texas Rose Garden is part of the Bush Center.
- s. “Ceremonial Courtyard” – The term Ceremonial Courtyard means the multi-purpose special event and activity space immediately adjacent to the south of Freedom Hall. The Ceremonial Courtyard is part of the Bush Center.
- t. “Museum Store” – The Museum Store means the retail sales operation established and run by the Foundation or its contractors. The Museum Store is part of the Bush Center.
- u. “Library Equipment” – Unless otherwise specified herein, the term Library Equipment means all operating equipment that the Foundation has made available to NARA for its use under this Joint Use Agreement in maintaining, operating, and protecting the Bush Library; and all program equipment that the Foundation has given to NARA, including prior to the Effective Date. The term “operating equipment” is defined in NARA’s architectural and design standards for Presidential libraries and includes such things as the machinery, equipment, and building systems (e.g., HVAC, electrical, mechanical) necessary to operate a presidential library. The term “program equipment” means equipment, machinery, office furnishings, and other furniture that support NARA’s performance of archival and administrative functions.
- v. “Foundation Equipment” – Unless otherwise specified herein, the term Foundation Equipment means any equipment, furnishings, machinery, system, fixture, or other item of personal property controlled or operated by the Foundation and located in the Bush Center as it was defined prior to the Effective Date, as well as any such property located within the Foundation Reversionary Spaces subject to the provisions of Section 4.b., and any property within or affixed to the Improvements.

- w. “Café 43” – The term Café 43, originally referred to as the “Restaurant”, means the retail food service operation established by the Foundation and located in the Center Building. Café 43 is part of the Bush Center.
 - x. “Courtyard Café” – The Courtyard Café, originally referred to as the “Café”, means the retail food service operation established by the Foundation and located in the Ceremonial Courtyard. The Courtyard Café is part of the Bush Center.
4. Return of the Museum, the Permanent Exhibit, and Other Property to the Foundation.
- a. The Reversion of the Museum and Other Spaces to the Foundation. In the Original JUA, the Foundation granted NARA an exclusive right, for the term and upon and under certain conditions, to use 89,640 gross square feet of space in the Center Building (of a total 210,864 gross square feet) and the operating equipment located therein to establish, maintain, operate, and protect the Bush Library and Museum as the Presidential archival depository relating to the Presidency of George W. Bush. As described in Recital H of this Joint Use Agreement, (i) the Archivist notified the Foundation that NARA intends to stop operating the Museum, the Education Spaces, the former SCIF and the other Foundation Reversionary Spaces specified in Section 3.i. herein; and (ii) the Foundation acknowledged its intent to accept the reversion of those Spaces and their incorporation into the Bush Center, subject to the congressional notification and reporting process. If Congress does not act within 60 days of continuous session beginning on the date that NARA submits its report, the Foundation Reversionary Spaces revert to the Foundation as of the Effective Date of this Joint Use Agreement. The Foundation Reversionary Spaces total 28,286 net usable square feet out of a total estimated gross square footage of 42,319, which includes the gross square footage of those electrical, HVAC, and mechanical rooms that support the other Foundation Reversionary Spaces. NARA has determined that it does not require control of these Building Management Spaces for security purposes.
 - b. The Return of Program Equipment Located in the Foundation Reversionary Spaces. In accordance with Section 18.b. of the Original JUA, title to all Program Equipment purchased by the Foundation and located in the Museum, Education Spaces, and other Foundation Reversionary Spaces will, as of the Effective Date of this Joint Use Agreement, revert to the Foundation (as the original owner). To the extent possible or permissible under federal property disposal law and

regulation, NARA will donate Program Equipment purchased by NARA for these areas to the Foundation (see section 15.b.). Otherwise, NARA will dispose of all remaining property in accordance with federal property disposal authorities.

- c. The Return of the Permanent Exhibit. The Foundation donated a completed Permanent Exhibit to NARA under the Original Joint Use Agreement. For the purposes of this Joint Use Agreement, the equipment and furnishings of the Permanent Exhibit are considered Program Equipment that reverts to the Foundation as described in Paragraph b. of this Section. Such equipment and furnishings include without limitation exhibit cases and other casework, graphics, lighting systems, software and hardware needed to run interactives, and other exhibit furniture and physical components or equipment needed to present artifacts and documents as a finished, museum-quality exhibit; provided that NARA and the U. S. Government retain full ownership and control over any and all presidential records, federal records, artifacts, donated papers, other presidential historical materials (as that term is defined in 44 U.S.C. § 2101(2)), or other Library or NARA holdings that are or have been displayed or used as part of the Permanent Exhibit (see Section 13). NARA and the Foundation have entered or will enter into loan agreements that meet all requirements of Federal law and NARA procedures so that the Foundation may continue to use NARA holdings in the Museum as part of its exhibits. To the extent that the Permanent Exhibit includes anything that NARA borrowed from third-party lenders, NARA will identify such lenders to the Foundation and terminate all such loan agreements on or before the Effective Date of this Agreement and, beginning on or before the Effective Date, the Foundation will be responsible for entering into loan agreements for those items with third-party lenders and any future loans.
- d. The Return of the Museum Portion of the Endowment. Within 90 days of the Effective Date, NARA and the Trust Fund Board will take all action necessary to distribute or cause to be distributed to the Foundation, and will promptly distribute thereafter, an amount equal to 46.39% of the balance as of the Effective Date of the endowment established pursuant to 44 U.S.C. § 2112(g)(2) for the maintenance of the facility and equipment comprising the Bush Library and Museum. The total amount of the endowment established in 2013 was \$9,763,162. The amount to be distributed to the Foundation under this paragraph is calculated consistent with the methodology used to calculate the original 2013 endowment amount and giving effect to the reduction in net usable square feet of the Bush Library and Museum immediately before the Effective

Date (60,972 net usable square feet) represented by the total net usable square feet of the Foundation Reversionary Spaces (28,286 net usable square feet).

- e. Prospective Effect of this Joint Use Agreement. In light of the foregoing, this Joint Use Agreement is intended to be and is prospective in nature, beginning with the Effective Date, as to the Parties' respective rights and responsibilities. Except where the context requires otherwise, any additional or different rights or responsibilities that NARA may have enjoyed under the Original Joint Use Agreement due to its prior control of the Museum and other Foundation Reversionary Spaces will not be referenced in this Joint Use Agreement.

5. The Rights Granted to NARA to Operate the Bush Library.

- a. Summary of Parties' Legal Rights. Sections 5 and 6 of this Joint Use Agreement address two organizations operating on the Premises: the Bush Library under NARA's control and the Bush Center under the Foundation's control. To this end, NARA has the exclusive right to operate the Library as a federal facility in part of the Center Building, with the Foundation retaining the exclusive right to conduct Bush Center operations in the rest of the Center Building and the Premises. The term "exclusive right" is intended to mean, for example, that only NARA can perform the functions associated with Bush Library operations and only the Foundation can perform the functions associated with Bush Center operations. The Foundation retains certain non-exclusive rights of access to and use of the Bush Library, as well as reversionary interests in the Bush Library, should NARA cease to operate the Library. NARA also retains certain non-exclusive rights to use the Bush Center in support of Library operations and will be responsible for providing security to the entire Premises. The term "non-exclusive right" is intended to mean a right of access or use for particular purposes that might be shared by other persons. For example, NARA provides some contract services to the Bush Center, but the Foundation's other contractors also need access to the Center to perform other services. Because of the rights granted and the design of the Center Building and Premises, the Parties will at all times respect and uphold each other's rights of access and use under this Joint Use Agreement. The Sections that follow Sections 5 and 6 are intended to govern the rights of access, control, and use discussed in this paragraph.
- b. Right to Operate the Bush Library. The Foundation granted NARA an exclusive right, for the term and upon and under the conditions set forth in the Original Joint Use Agreement, to use 89,640 gross square feet of space in the Center Building (of a total 210,864 gross square feet) and the operating equipment

located therein to establish, maintain, operate, and protect the Bush Library and Museum as the Presidential archival depository relating to the Presidency of George W. Bush. Pursuant to Section 4.a. of this Joint Use Agreement and the actions of the Parties, 28,286 net usable square feet (out of an estimated gross square footage of 42,319 which includes the gross square footage of those electrical, HVAC, and mechanical rooms that impact the Foundation Reversionary Spaces identified in Section 3.i. and for which NARA has determined it does not require control for security purposes) revert to the Foundation's control as of the Effective Date. The Foundation now hereby affirms its original grant to NARA of an exclusive right, for the term and upon and under the conditions set forth in this Joint Use Agreement, to use the remaining 32,686 net usable square feet of space in the Center Building and the operating equipment located therein to maintain, operate, and protect the Bush Library as the Presidential archival depository relating to the Presidency of George W. Bush; provided that in the event the Archivist chooses or is otherwise compelled by presidential or congressional authority to stop operating the Library as a Presidential archival depository relating to the Presidency of George W. Bush, the exclusive rights granted to NARA herein shall terminate and all rights and privileges appurtenant thereto shall revert to the Foundation. The Foundation's reversionary interest in the Bush Library as defined in this Joint Use Agreement will only be triggered by extraordinary circumstances. Less than extraordinary circumstances that result in a suspension of Library operations for an extended period of time – e.g., a government shutdown due to a lapse in appropriations authority or the need for significant building repairs – will not, by themselves, be sufficient. When either NARA or the Foundation concludes that extraordinary circumstances have resulted in the imminent or actual cessation of Library operations by NARA, that Party shall give written notice of such conclusion to either the Foundation or NARA, as applicable. The Party receiving notice shall have 45 days to respond in writing to the notice. The areas of the Center Building comprising the Library are described in Section 3.f. of this Agreement and reflected on Exhibit B-1 of this Agreement. Pursuant to the Original JUA, NARA and the Foundation determined that of the total area comprising the Library and Museum, 60,972 square feet constituted the “net usable square feet”, which set forth the endowment calculation formula and further that the total net usable square feet in the Center Building equaled 140,941 square feet. After giving effect to the changes reflected in this Joint Use Agreement, the Parties have determined that the Library, without the Foundation Reversionary Spaces, is comprised of 32,686 net usable square feet out of a total net usable square feet in the Center Building of 140,941 square feet. Section 13.b. of this Agreement addresses the disposition of presidential records

and historical materials in the event the Foundation's reversionary interest is triggered under this paragraph, and Section 15.b. addresses the disposition of program equipment should reversion of the Library occur.

- c. Access to the Bush Center for Purpose of Maintaining Security. The Foundation hereby grants to NARA a non-exclusive right, for the term and under the conditions set forth in this Joint Use Agreement, to enter and use, or to authorize others to enter and use, the entire Bush Center for the purpose of maintaining security therein, provided that (i) such access and use do not unreasonably interfere with the Foundation's access to or use of the Bush Center, and (ii) NARA provides trained security personnel for and maintains and operates the security system for the entire Premises; and further provided that the Foundation reserves for itself all rights and property interests in the data collected by the security system from the Bush Center portion of the Premises. The rights granted in this Agreement include without limitation a continuous right of access by NARA to any static security guard posts or stations and associated equipment or furnishings located in the Bush Center (e.g., the security guard post and magnetometer/metal detector located at the entrance to the Front Lobby). The Foundation will reimburse NARA 100% of the costs incurred for any "Foundation Guard Posts" (term defined in Section 18.b) or for requested extra security costs resulting from Foundation activities and programs (e.g., off-hours programming) in accordance with Section 18.f of this Agreement. Section 18 also addresses other security issues relating to Library and Center operations.
- d. Access to the Bush Center in Support of Library Operations and Programs. The Foundation hereby grants to NARA a non-exclusive right, for the term and under the conditions set forth in this Joint Use Agreement, to enter and use, and to authorize others to enter and use, the Front Lobby and other areas of the Bush Center in support of the Bush Library's daily operations, including to use the exhibit preparation and production shop in support of NARA's archival and loan activities, and to present the Library's educational and public programs. Sections 11 and 12 of this Agreement further address NARA's rights to use the Bush Center for these purposes, including without limitation meeting and escorting VIPs and other visitors; access to the Museum by education program participants and public program attendees; the right to request the use of the Seminar Rooms, Education Spaces and Auditorium for internal NARA business purposes; and the right to request the use of these and other areas listed in Section 12 for NARA programs.

- e. Access to the Bush Center for the Purpose of Performing Contracts. The Foundation hereby grants to NARA a non-exclusive right, for the term and under the conditions set forth in this Joint Use Agreement, to enter and use, or to authorize others to enter and use, the Bush Center for the purpose of performing contracts that support NARA's responsibility to operate, maintain, and repair the Bush Library. Sections 17.g. and 20.e. of this Joint Use Agreement require NARA and the Foundation to notify the other in advance of maintenance, repairs, or other work that could affect the operation or performance of Library or Foundation equipment, systems, or utilities, pose a threat to Center or Library occupants or visitors, or impair the Parties' use and enjoyment of the Center or the Library.
- f. Access to the Southeast Parking Area. The Foundation hereby grants to NARA a non-exclusive right, for the term and under the conditions set forth in this Joint Use Agreement, to enter and use, or to authorize others to enter and use, the 35 parking spaces designated specifically as the NARA staff parking area in accordance with Section 3.m. of this Agreement, at any time for and in support of official Government business. The Foundation hereby grants to NARA a non-exclusive right, for the term and under the conditions set forth in this Agreement, to enter and use, or to authorize others to enter and use, the loading dock area. The non-exclusive nature of the rights granted by this paragraph is intended to preserve both the Foundation's access to its loading dock and NARA's access to its loading dock (Section 6.c.). Unless and until NARA relinquishes control of any such spaces or unless NARA otherwise approves, NARA will be the only entity allowed use of these parking spaces and its 24-hour access under this paragraph shall be limited only by the need to access the loading dock, security rules, and any procedures established by NARA. NARA agrees to assess its needs for the 35 parking spaces within one year of the Effective Date and will cooperate with the Foundation to relinquish control of any specific parking spaces NARA determines are no longer needed.
- g. Continuing Right of Access. The Foundation shall not permit or create, or cause to be permitted or created, any continuing event or condition that prevents, restricts, or otherwise materially interferes with NARA's use and enjoyment of its rights under this Section 5 or this Joint Use Agreement.
- h. Term. The term of all rights granted to NARA in this Section 5 (the "Term") shall commence on the Effective Date of this Joint Use Agreement (the "Term Commencement Date") and, from that date forward, shall be coterminous with the term(s) outlined in the ground Lease Agreement between SMU and the

Foundation. The SMU-Foundation Agreement granted the Foundation a 99-year lease in 2010, with the option to renew the lease up to six times, with each renewal option having a 25-year term.

6. Rights Retained by the Foundation. The rights that the Foundation has granted to NARA in Section 5 of this Joint Use Agreement shall be exercised by NARA subject to the following Exceptions and Reservations:

- a. The Foundation reserves for itself, for the term and under the conditions set forth in this Joint Use Agreement, an exclusive right to operate the Bush Center on the Premises, including without limitation all parts of the Center Building to which NARA has not been granted exclusive rights. The Foundation reserves these rights to the full extent permitted by applicable state and federal laws pertaining to 501(c)(3) corporations and said reservation includes without limitation the right to operate a Museum and the other Foundation Reversionary Spaces at the Bush Center and otherwise to conduct such activities and programs as it may determine.
- b. The Foundation reserves for itself, for the term and under the conditions set forth in this Joint Use Agreement, a non-exclusive right to enter and use, or to authorize others to enter and use, the Bush Library – other than any Library Secure Areas (Section 10.d.) – for the purpose of performing Foundation contracts in support of Bush Center operations. The Foundation acknowledges the need to coordinate access to Library Secure Areas with the Library to perform work under any contracts. Sections 17.g. and 20.e. of this Agreement require NARA and the Foundation to notify the other in advance of maintenance, repairs, or other work that could affect the operation or performance of Library or Foundation equipment, systems, or utilities, pose a threat to Center or Library occupants or visitors, or impair the Parties' use and enjoyment of the Center or the Library.
- c. The Foundation reserves for itself, for the term and under the conditions set forth in this Joint Use Agreement, a non-exclusive right to enter and use, or to authorize others to enter and use, the Southeast Parking Area for the purpose of maintaining and using the Foundation's loading dock.
- d. The Foundation reserves for itself, for the term and under the conditions set forth in this Joint Use Agreement, a non-exclusive right of access to the NARA freight/service elevator (FE1) and NARA service corridor located on the first floor of the Bush Library for the purpose of moving equipment,

furniture, or other items into and out of the Museum Exhibit Galleries, Freedom Hall and the Ceremonial Courtyard that are too heavy to be safely moved through the Center Building any other way. The Parties understand and agree that from and after the Effective Date, the freight elevator and service corridor are not located in a Library Secure Area (Section 10.d.).

- e. NARA shall not permit or create, or cause to be permitted or created, any continuing event or condition that prevents, restricts, or otherwise materially interferes with the Foundation's enjoyment of its rights under this Section 6 or this Joint Use Agreement.
7. Legal Relationship of the Parties. The rights the Parties have granted to each other in this Joint Use Agreement do not constitute, and are not intended to give rise to, a partnership, joint venture, or agency relationship between the Parties, or a relationship of landlord and tenant. The relationship of the Foundation and NARA shall be and remain a purely contractual relationship between joint users of real property. Each Party will operate under the terms of this Joint Use Agreement as an independent legal person and will avoid, in fact and appearance, exerting any improper influence over the other's governance, authority, activities, or operations.
8. Trust Fund Balance. Since the Museum opened to the public, NARA has retained, in the Library's Trust Fund account, the net proceeds from fees charged to the public for admission to the Museum.
- a. Consideration. NARA shall pay no fee for the rights granted by this Joint Use Agreement. The Foundation and NARA agree that NARA's commitment to maintain, operate, and protect the Library in accordance with the requirements of Federal law and the terms and conditions of this Joint Use Agreement, thereby providing a benefit to the mission of the Foundation, constitutes adequate and valuable consideration for said rights.
 - b. Library's Trust Fund Balance. The Parties acknowledge and agree that from and after the Effective Date, NARA will hold, administer, and expend all funds remaining in the Library's Trust Fund account(s) to support the Library as NARA sees fit.
9. Consultation and Cooperation between the Parties.

- a. General. NARA and the Foundation agree that they share an interest in working cooperatively to make the resources of the Bush Library and the Bush Center available for public enrichment. To this end, and in addition to any specific consultation or information-sharing requirements in this Joint Use Agreement, NARA and the Foundation will make reasonable efforts to: keep each other informed on a regular basis of plans and activities to facilitate the smooth operation of their separate facilities; recognize and make decisions on opportunities for mutually beneficial joint programming; and resolve misunderstandings quickly.
- b. Library Director's Position. The Archivist appoints the Director of the Bush Library ("Library Director") pursuant to 44 U.S.C. §§ 2105(a)(2) and 2203(g)(2) and following consultation with President Bush. Subject to these statutory requirements, NARA agrees to consult with the Foundation's Board of Directors before the Archivist appoints any future Library Directors. For the purposes of this paragraph, "consult" means providing the Foundation's Board the opportunity to suggest potential candidates for or desired qualifications of the new director; and, before the Archivist makes a decision on whom to select, to meet with the finalist(s) and share the Board's views on them with the Archivist. The right of consultation provided by this paragraph is not intended to and does not include any Foundation Board approval or veto power over director appointments.
- c. Fundraising. The Library Director may fundraise in support of Library educational and public programs, and other authorized activities; and may solicit and accept gifts for the same purposes for deposit in the Bush Library's Gift Fund. In exercising this authority (44 U.S.C. § 2112(g)(1)), the Library Director may also participate in fundraising with the Foundation or other organizations when such participation is mutually desirable and for the direct benefit of the Library or NARA (e.g., a joint activity or program of the Library and the Foundation). The Library Director may generally not fundraise with the Foundation or other organizations when the purpose of the fundraising is activities or programs in which NARA does not participate (e.g., Bush Center exhibits).

10. The Bush Library.

- a. General. Pursuant to the Original Joint Use Agreement, the Foundation delivered possession of the Bush Library and Museum to NARA on April 24, 2013, and NARA commenced operations under the Original Agreement on the

same date (the “Original Term Commencement Date”). Pursuant to the exclusive rights granted NARA in Section 5.b. of this Joint Use Agreement, NARA retains possession of those areas in the Center Building that comprise the Bush Library. NARA will maintain and operate the Bush Library in accordance with all applicable laws, regulations, rules, standards, and policies, including without limitation chapters 21, 22, and 23 of Title 44, U.S.C., other applicable Federal laws and regulations, all internal regulations, standards, and policies of NARA, and the terms and conditions of this Joint Use Agreement. This responsibility includes without limitation maintaining, preserving, protecting, and making available the Presidential records of President Bush in accordance with chapters 21 and 22 of Title 44.

- b. Control of Library Space and Equipment. Pursuant to the exclusive rights granted by Section 5.b. of this Joint Use Agreement, NARA shall at all times during the Term of this Agreement operate the Bush Library as a federal facility and retain, on behalf of the U.S. Government, exclusive control over and responsibility for the facility, equipment, Presidential records, historical materials, and other property of the Library, as well as the official activities, functions, operations, and programs of the Government that are performed or take place within its confines.
- c. Official Business. The primary purpose of the Library is to serve the public during regular visiting hours through the performance of ongoing Government business, including without limitation the operation of research facilities and the presentation of educational programs. From time to time, NARA will engage in other official activities during both regular and off hours, including without limitation official ceremonies and public programs. The Foundation may participate in such activities as NARA and the Foundation mutually agree. Nothing in this Joint Use Agreement is meant to limit NARA’s ability to use the Library to conduct official business.
- d. Use of Research Rooms, Classrooms, and Nonpublic Areas. The research rooms are open to members of the public wishing to conduct research in the presidential records and other documentary holdings of the Bush Library, but are not available for use by the Foundation or others without the Library Director’s approval, except for the same purpose. The Foundation shall make the classrooms (including the situation room space) available for the Library’s educational and public programming purposes as allowed in Section 10.e. The Foundation and the Library shall enter into a separate agreement concerning their cooperation with respect to the Situation Room Experience wherein the

Library shall be the lead for developing Situation Room Experience content, the lead when presenting the programming of the Situation Room Experience to Federal users, and may offer the Situation Room Experience to students. In order not to interfere with the conduct of official business, NARA will schedule and accompany or conduct all tours of the research rooms and nonpublic areas of the Library, coordinating same as necessary with the Foundation. NARA will notify the Foundation of any areas ("Library Secure Areas") within the Library that are, for security or other reasons, off limits to all persons other than the employees, independent contractors, and other agents or invitees of NARA.

- e. Educational Programming. NARA may offer educational programs at its discretion and may use the Education Spaces for such purposes in accordance with Section 12.c.. NARA will provide information to the Foundation on a regular basis about programming plans, opportunities, and challenges, including without limitation any funding needs. NARA will be responsible for and retain final authority over the design, content, and presentation of Bush Library educational programs. Per Section 9.c., the Library Director may fundraise with other persons and organizations in support of educational programs.
- f. Sources of NARA Funding. NARA shall perform its responsibilities using congressional appropriations and trust and gift funds. NARA shall hold and administer the income produced by the Library's endowment in the National Archives Trust Fund and shall expend such income to defray the cost of facility operations, as required by 44 U.S.C. § 2112(g)(2). The Library Director retains the authority to fundraise in support of Library activities, subject to the terms and conditions of this Joint Use Agreement (see, e.g., Section 9.c.).
- g. NARA Building Rules. Pursuant to NARA regulations (currently codified at 36 C.F.R. part 1280, subparts A, B, and C), all use of the Library must be for the benefit of or in connection with the mission and programs of the Library, and must relate to or further the Library and NARA's archival, records, or other interests. All Foundation use of the Library must conform to the requirements of part 1280. Among other things, part 1280 prohibits private groups from conducting: profit making activities; commercial advertising and sales activities; many forms of fundraising by or for outside groups (including nonprofit groups); partisan political activities; or sectarian activities. In addition, part 1280 prohibits groups from collecting money inside the Bush Library in connection with their use of the Library or for any other purpose. NARA's building rules do not apply to the Bush Center and NARA acknowledges that the Foundation may establish its own rules and procedures for the use of the Center and the Premises.

- h. Compliance with Architectural and Design Standards. NARA and the Foundation agree that, as of the Effective Date of this Joint Use Agreement, the Bush Library, as now defined in this Agreement, and the Foundation Reversionary Spaces are in full compliance with the applicable architectural and design standards for Presidential Libraries in effect at the time of construction.
- i. Certificate of Occupancy. The Foundation delivered to NARA, on or before the Original Term Commencement Date, copies of the certificates of occupancy for the Center Building that were issued by the relevant jurisdiction(s).

11. The Museum.

- a. General. Pursuant to Section 4.a. of this Joint Use Agreement, control of the Museum Exhibit Galleries, the Education Spaces, the former SCIF and other Foundation Reversionary Spaces reverted to the Foundation as of the Effective Date and became part of the Bush Center. The Foundation intends to use these areas to operate, staff and maintain, at its expense and under its sole control, a Museum. The Museum, along with Freedom Hall and the Texas Rose Garden, form the core daily visitor experience.
- b. Exhibits. The Foundation shall exercise sole control over the exhibits presented in the Permanent Exhibit Gallery, the Special Exhibit Gallery, the Front Lobby Exhibit Cases, or elsewhere in the Bush Center. From and after the Effective Date, the Foundation will be responsible at all times and bear all costs for: the curation, design, fabrication, and content of all exhibits presented in the Bush Center, including without limitation any changes made to the Permanent Exhibit or the Front Lobby Exhibit Cases; the maintenance, repair, or replacement of Museum furnishings; the ongoing maintenance, repair, and upgrades of the software, hardware, and other equipment necessary to run interactive displays in the Museum Exhibit Galleries or elsewhere in the Bush Center; and the borrowing and insuring of artifacts and objects for use in Bush Center exhibits. Notwithstanding the preceding two sentences, the Foundation agrees that it will obtain NARA's approval of any changes to the Museum Exhibit Galleries that may affect the security, loan, preservation and/or environmental requirements for any NARA holdings loaned to the Foundation.
- c. Loan of NARA Holdings. NARA agrees to loan Bush Presidential records and artifacts and other NARA holdings to the Foundation on an ongoing basis for exhibition in the Bush Center as part of NARA's normal loan program. All loans

will be documented in loan agreements that meet the requirements of Federal law and NARA's policy and rules regarding the loaning of NARA holdings to external organizations. As noted in paragraph b. of this Section 11, NARA's loan policy addresses security, preservation, and environmental requirements, among other things, including limitations on the conduct of activities in proximity to artifacts and holdings (e.g., alcoholic beverage rules and rules on food and drink near exhibits).

d. Operations.

- i. General. From and after the Effective Date, the Foundation is solely responsible for the operation and staffing of the Box Office and Museum visitor services operations and Museum volunteer program; the setting, collection, and disposition of Museum admission fees; the promotion and sale of Foundation memberships and any electronic or mobile apps or devices designed to enhance the Museum experience; the disposition of membership or other Museum proceeds; and wayfinding within the Museum.
- ii. Researchers and Other Official Visitors to the Bush Library. The Foundation will charge no admission fee to researchers or other visitors who are only on the Premises to conduct business with NARA (e.g., access the Bush Library). Box Office or other Foundation personnel will direct researchers and other Library visitors to the Research Room or other locations in the Library that may be reached without an escort and the Parties will coordinate as necessary to ensure access is not needlessly impeded and otherwise meets the appropriate security requirements and terms of this Agreement.
- iii. Tours. Both NARA and the Foundation may conduct tours of the Museum Exhibit Galleries and related visitor experience areas (e.g., Texas Rose Garden, Freedom Hall) during regular visiting hours. Admission fees and any discounts, waivers or surcharges shall be determined solely by the Foundation provided that no admission fees shall be charged for access by NARA staff acting in an official capacity and the Foundation will provide NARA complimentary admission for students participating in NARA education programs and up to 5,000 additional visitors per year, with NARA or the NARA visitor(s) paying 75% of the group sales admission fee for every person in this category above 5,000 who tours the Museum Exhibit Galleries. All visitors during normal Museum hours shall be issued tickets or otherwise accounted for in the Museum's ticketing system whether or not admission is paid or complimentary.

- iv. Disposition of Admission Fees and Foundation Surcharge; Reports. From and after the Effective Date, all proceeds from daily admission fees and special exhibit fees, however collected (e.g., Box Office, online or group sales), will belong to the Foundation. In the event the Foundation makes Foundation Memberships available to daily visitors as they enter the Museum, all proceeds from the sale of Foundation Memberships shall belong to the Foundation. NARA will furnish monthly reports to the Foundation regarding the number of visitors to the Library for education programs. The Foundation will furnish monthly reports to NARA regarding the number of visitors to the Museum.
- v. NARA Passport. The Foundation shall continue to make available to Museum visitors NARA's Passport to Presidential Libraries ("Passport"). NARA shall be responsible for providing an inventory of said Passports to the Foundation for sale and the Foundation shall make the Passport available for purchase by Museum visitors. Further, the Foundation shall remit to NARA, not less than quarterly, the proceeds from the sale of the Passport at the Box Office, less any applicable credit card processing charges.
- e. Use of the Museum Exhibit Galleries. From and after the Effective Date, the Museum Exhibit Galleries may be used for the presentation of exhibits and such other purposes as the Foundation may deem appropriate, including without limitation the hosting of rental or other Foundation events and programs. In addition to daily visitors, other guests may visit the Museum Exhibit Galleries in connection with activities or events held elsewhere in the Library or the Bush Center. The Foundation acknowledges that the uses to which it puts the Museum Exhibit Galleries, including without limitations any changes made to those areas, could affect its ability to borrow NARA holdings due to the agency's rules regarding the loaning of NARA holdings to external organizations (see Sections 11.b. and 11.c. of this Joint Use Agreement). Notwithstanding the previous sentence, the Parties agree that, because of the unique design of the Front Lobby Exhibit Cases and their close proximity to the Front Lobby, NARA's procedures for the conduct of activities in proximity to artifacts and holdings (e.g., alcoholic beverage rules and rules on food and drink near exhibits) will not apply to the Front Lobby or Freedom Hall. The Foundation agrees to reimburse NARA for any additional security costs associated with after-hours use of the Museum Exhibit Galleries.

- f. Volunteer Program. The Foundation will operate the volunteer program for the Bush Center, including the Museum, and will be responsible for scheduling and conducting tours for the public. The Foundation and NARA will coordinate the scheduling of tours to the greatest extent possible so as not to interfere unreasonably with Library activities or operations, or the public's use and enjoyment of the Museum. The Parties may enter into such agreements implementing this subparagraph as they deem necessary or desirable. Per Section 10.d. of this Joint Use Agreement, NARA will schedule and either accompany or conduct all tours of the research rooms and nonpublic areas of the Library. The Parties agree that NARA may choose to operate a volunteer program to support its administrative, archival, and education programs.

12. Use of the Bush Center.

- a. Joint Programming. It is the Foundation's and NARA's desire that they work together on an ongoing basis to use the Bush Center public areas for meetings, conferences, and other public programs and activities that mutually benefit the public and their respective missions and goals. To this end, the Foundation and NARA may make plans and enter into arrangements as they deem necessary and appropriate to present public programs in concert and to assign roles and responsibilities to each other in support of such efforts.
- b. NARA's Use for Internal Business Purposes. Per Section 5.d., NARA may request use of the Bush Center's Seminar Rooms, Education Spaces and Auditorium for internal business meetings and similar non-public purposes. For requests made 30 days or less in advance of the use date, the Foundation will grant such requests if space is available and there is no reasonable likelihood that the space can be rented for the desired date following approval. The Foundation may grant requests for space more than 30 days in advance at its sole discretion. NARA will not be charged a fee for using such spaces, but will bear the expense of any additional routine facility maintenance and upkeep (e.g., security, custodial) costs that the Foundation incurs due to such use.
- c. NARA's Use for Public Programs. Per Section 5.d., NARA may request the use of the Bush Center's event or program areas for conferences, educational programs, meetings, symposia, or other public programs, including without limitation the Auditorium, the Ceremonial Courtyard, Freedom Hall, the Front Lobby, the Museum Exhibit Galleries, the Seminar Rooms, the Education Spaces, and the Texas Rose Garden. The Foundation will grant such requests at the Foundation's sole discretion, and if space is available and there is no reasonable

likelihood that the Foundation will be able to rent the space for the desired date following approval. NARA will not be required to pay any fees for the use of these areas for NARA-only public programs, but NARA will be responsible for all costs associated with presenting the program and will directly pay for any additional routine facility maintenance and upkeep costs (e.g., security, custodial) that the Foundation incurs due to such use. Nothing in this paragraph is intended to limit the Parties' ability to present public programs together (par. a. above), or to come to a mutually agreeable and beneficial approach to public programming in the Bush Center, including without limitation public programs presented by NARA without Foundation financial support or involvement.

- d. Foundation Rental Program. The Foundation operates a rental program for third-party use of the Bush Center.
- e. Bush Center Educational Programming. From time to time, the Foundation may, with or without NARA's participation, develop and present educational programming related to the Museum, the Bush Institute and the life and legacy of President and Mrs. George W. Bush.
- f. Other. Nothing in this Section or this Joint Use Agreement is intended to limit the Library's or the Foundation's ability to conduct public programs in space provided by another suitable venue.

13. Ownership, Use, and Public Domain Status of Records and Historical Materials.

- a. NARA and U.S. Government Records and Historical Materials. Nothing in this Joint Use Agreement is intended to alter or impair any rights of control, custody, ownership, or use that NARA or the U.S. Government may have in any presidential records, federal records, artifacts, donated papers, other presidential historical materials (as that term is defined in 44 U.S.C. § 2101(2)), or other Library or NARA holdings that may be used in conducting Library or Foundation activities or programs. The Parties understand and agree that NARA and the Library will not be transferring control, custody, or ownership over any of their holdings to the Foundation or any third party. The Parties further understand and agree that any use of records, historical materials, and other NARA or Library holdings by the Foundation or a third party – for example, as part of a loan or exhibit – will be made in strict accordance with Federal law and NARA procedures. Nothing in this Agreement is intended to alter or impair the status of any presidential or federal records, historical materials, or other NARA or Library holdings that are in the public domain, or that may enter the public

domain in the future. Section 11.c. of this Agreement addresses the loan of NARA holdings to the Foundation on an ongoing basis for exhibition in the Bush Center.

- b. Reversion of Bush Library. Paragraph a. of Section 13 will apply in the event that the Foundation's reversionary interests in the Bush Library pursuant to Section 5.b. of this Joint Use Agreement are triggered. In such event, NARA shall have a reasonable amount of time to remove presidential records, federal records, presidential historical materials, and other NARA holdings and federal property from the Center Building or to make suitable arrangements for their storage and/or use by the Foundation (e.g., loan agreements).
- c. Bush Family and Foundation Historical Materials and Property. Nothing in this Joint Use Agreement is intended to alter or impair any rights of control, custody, ownership, or use that President Bush, members of his family, the Bush Foundation, or any other third party may have in any books, papers or other historical materials, or other personal property that may be used in conducting Library or Foundation activities or programs. The Parties understand and agree that any use of Bush Family, Foundation, or third-party historical materials or property by NARA will be made in strict accordance with such lawful conditions as may be imposed by the Bush Family, the Foundation, or the third party. Nothing in this Agreement is intended to alter or impair the status of any Bush Family, Foundation, or third-party historical materials or personal property that are protected by intellectual property law, including without limitation copyright law.

14. Use of Names, Seals, Logos, Trade and Service Marks; Marketing and Promotional Materials; Endorsements.

- a. General. NARA acknowledges that the Foundation owns the rights associated with the Library's names, seals, logos, symbols, trademarks and/or service marks associated with the Bush Library and/or Museum (collectively, the "Library Intellectual Property") and agrees not to seek to attack or render unenforceable the title of the Foundation to such Property or any subsequent trademark registrations derived from such Property or otherwise. NARA has been granted a nonexclusive right to use the Library Intellectual Property so long as NARA operates the Library, subject to the provisions of this Section 14. Both NARA and the Foundation shall have the right to enforce the unauthorized use of the Library Intellectual Property by another party; however, the Foundation shall

retain the exclusive right to bring an infringement, unfair competition or other formal enforcement proceeding regarding unauthorized use of such Property.

- b. Marketing and Promotional Materials. NARA and the Foundation may use the Bush Library's name, seal, logos, symbols, trademarks or service marks, on a non-exclusive basis, in fundraising, marketing, and promotional efforts for itself or entered into on the Library's behalf, provided that the content of all fundraising, marketing, and promotional materials referring either directly or indirectly to the Library (subject to Section 14.c.), or containing or using NARA's seal, logos, symbols, and trademarks or service marks, must be approved by the Library Director, or his designee, prior to publication, transmission, issuance, or other use. Said approval will not be withheld unreasonably.
- c. Parties' Use of Each Other's Names in Fundraising, Marketing, and Promotional Purposes. The Parties agree that they will only use each other's names, seals, and marks for fundraising, marketing, or promotional purposes as permitted by this Section 14, except that NARA understands and agrees that the Foundation may use the Library's name in raising money to endow the Center Building and the Center Improvements. NARA further understands and agrees that the Foundation may, in accordance with its Certificate of Formation and Bylaws, raise money to support activities and programs other than the Library. Consistent with Section 14.e. of this Agreement, the Foundation shall not state or imply when conducting fundraising for non-Library purposes that the Library or NARA endorses the Foundation's activities or the beneficiaries of such fundraising.
- d. Recognition of Donors. The Parties may appropriately recognize financial supporters of the Library or the Center or their respective programs, including use of corporate names and logos. All recognition given by the Foundation that refers to the Library directly or indirectly must be approved prior to first publication or use, per this Section 14. Areas within the Bush Center, including the Museum Exhibit Galleries, may be named for persons, groups, or corporate sponsors as determined solely by the Foundation. Areas within the Library may only be named for persons, groups, or corporate sponsors with the prior written approval of both NARA and the Foundation, which will not be withheld unreasonably. NARA understands and agrees that any naming of areas within the Library will be subject to the Foundation's reversionary rights in the Library (Section 5.b.) and otherwise limited in duration to the Term of this Joint Use Agreement (Section 5.h.).

- e. No Endorsements. Absent a separate and express authorization, the Library's name, seal, logos, symbols, trademarks or service marks will not be used by the Foundation in any way that implies or states that the Library, NARA, or any part thereof, or any Library or NARA official or employee, endorses the (i) Foundation's operation of the Museum, including without limitation the exhibits or programming presented therein; or (ii) the policies, activities, products, or services of any third party. NARA agrees that, absent a separate and express authorization, it will not use the Foundation's name, seal, logos, symbols, trademarks, or service marks in any way that implies or states that the Foundation, its officers, or employees endorses the policies, activities, products, or services of any third party. NARA further agrees that any use of the Foundation's name, seal, logos, symbols, trademarks, or service marks must be approved by the Foundation prior to publication, transmission, issuance, or other use. Said approval will not be withheld unreasonably.
- f. Other Agreements. The Foundation and NARA may enter into such separate agreements as they deem necessary or desirable regarding the use of each other's names, seals, logos, symbols, trademarks, or service marks.

15. Library Equipment.

- a. Operating Equipment. Title to the operating equipment made available under this Joint Use Agreement for NARA's use in maintaining, operating, and protecting the Bush Library shall remain in the Foundation unless and until title is transferred, in part or in whole, to the United States in accordance with Federal law and regulations. NARA shall use operating equipment only for its intended purposes and shall be responsible for maintaining, repairing, and replacing it as required by this Agreement.
- b. Program Equipment.
 - i. Program Equipment Located in the Bush Library. Pursuant to Section 18.b. of the Original Joint Use Agreement, the Foundation gave NARA all right, title, and interest it had in the program equipment it purchased and installed in the Bush Library and Museum for NARA's use. Title to all Program Equipment located in the Bush Library remains with NARA, provided that, in the event NARA ceases to operate and maintain the Bush Library for purposes of Section 5.b. of this Agreement, title to any program equipment conveyed by the Foundation shall revert to the Foundation. It is NARA's intent, in the event of a reversion of some or all of the Library, and to the extent

permissible under federal property disposal law and regulation, to dispose of any program equipment that NARA purchased in the spaces that revert by giving it to the Foundation. The Foundation acknowledges that federal personal property, including program equipment purchased by NARA, must be disposed of in accordance with federal law and regulation (e.g., the Federal Management Regulation, 41 CFR part 102). To the extent possible, NARA will work with the Foundation to obtain the necessary authority to donate to the Foundation any program equipment that NARA has purchased to replace equipment donated by the Foundation. NARA shall continue to use the program equipment donated by the Foundation for use in the Library only for its intended purposes, and to be responsible for maintaining, repairing, and replacing that equipment.

ii. Program Equipment Located in the Museum and Other Foundation Reversionary Spaces. The Foundation also gave NARA all right, title, and interest it had in the program equipment it purchased and installed in the Museum and other Foundation Reversionary Spaces for NARA's use. This donation of program equipment was subject to a possibility of reverter under the conditions described in Section 18.b. of the Original Joint Use Agreement. Pursuant to Section 4.b. of this Joint Use Agreement, title to all Program Equipment located in the Museum and other Foundation Reversionary Spaces will, as of the Effective Date of this Agreement, either revert to the Foundation (as the original owner); be donated to the Foundation (if purchased by NARA and permitted by federal property disposal authorities); or otherwise be disposed of in accordance with federal property disposal authorities. NARA will provide the Foundation with a Schedule describing all program equipment to which title is being transferred under this Section, whether by reversion or federal disposal authorities or otherwise.

c. Reservation of Rights. Nothing in this Section or this Joint Use Agreement is intended to impair NARA's ability to accept future gifts of operating or program equipment, or related services, from the Foundation or others.

16. Foundation Equipment. The Foundation shall retain title to and control over all Foundation Equipment. The Foundation shall be responsible for maintaining, repairing, and replacing Foundation Equipment.

17. Operation and Maintenance of the Bush Library and Bush Center.

- a. Summary. From and after the Effective Date, NARA will bear the full cost of operating and maintaining the Library on a day-to-day basis; and the Foundation will bear the full cost of operating and maintaining the Bush Center on a day-to-day basis, including without limitation the Museum, Education Spaces, the former SCIF and other Foundation Reversionary Spaces, all Parking Areas, the other Improvements, Café 43, and the Courtyard Café. It is the Parties' intention that the Foundation will select a vendor for CFM services for the entire Center Building after the Effective Date and as set forth in this Section. The Foundation will also provide or contract separately for maintenance and other services for the Improvements located outside the Center Building. Each Party will be responsible for the CFM services it receives in the manner set forth in this Section.
- b. Contracts. It is the Parties' intention that the Foundation will select a vendor for CFM services for the entire Center Building, with the start date of said services to be coordinated with the scheduled end of the option year of the NARA CFM contract that is in place on the Effective Date. The vendor(s) and any subcontractors selected by the Foundation must be registered on the federal government's System for Award Management. The term "CFM services" includes such things as mechanical and janitorial services, operation and maintenance of building systems (e.g., fire suppression, electrical, HVAC) and related equipment, and routine facility maintenance and upkeep. The Foundation and NARA will enter into separate contracts with the vendor selected by the Foundation. NARA's contract with the vendor will be a sole-source contract that conforms to federal requirements. The Foundation and NARA shall consult on the statements of work for the CFM vendor prior to the commencement of individual procurement actions. The Parties agree that the purpose of this consultation will be to communicate each Parties' expectations regarding the level, quality, and cost of services to be provided under the various parts of the overall CFM services, as well as the specific level, quality, and cost of services to be provided to the Bush Center and the Library. The Foundation and NARA may mutually agree to include some or all of such services in the CFM contracts. The Foundation will include a NARA representative in its discussions with a prospective vendor and will allow NARA a reasonable amount of time to review and comment on the terms of the proposed final contract, as well as the qualifications of the subcontractors. While such contract is in effect, the CFM vendor will provide reports reasonably requested by the Parties concerning the contract. In advance of each option year, the Parties will jointly assess the level, quality, and cost of the CFM services. If the Parties have significant issues with the CFM services that have not been addressed, the Parties shall use their best

efforts to address such issues and, if necessary will terminate such contract and secure a substitute vendor involving NARA to the same extent it was involved at the outset of the original contract. The Parties will consult regarding any material changes to the CFM services statement of work.

- c. Contracting Independence and Oversight. This Joint Use Agreement does not constitute a procurement contract and is not subject to the Federal Acquisition Regulation or other requirements governing federal procurement contracts. The Parties understand and agree that each Party will assert contracting independence and oversight over the contracts that they award. The Parties will exercise their contracting independence in accordance with paragraph g. of this Section pertaining to notice of maintenance that could affect the other's operations or rights.
- d. Allocation of Costs. Under the Original Joint Use Agreement, NARA provided for CFM services for the entire Center Building and the Foundation reimbursed NARA for the CFM services it received. It is the Parties' intention that under this Agreement, NARA will, beginning on the Effective Date, continue to provide for CFM services for the entire Center Building in accordance with Section 20 of the Original JUA until the Foundation's selected vendor assumes this responsibility as set forth above in subsection b. of this Section 17; provided that the reimbursement ratio will change on the Effective Date to reflect the reversion of the Foundation Reversionary Spaces to the Foundation. Prior to reversion, the Foundation reimbursed NARA 56.74% of the costs that could not be assigned or apportioned (e.g., daily custodial service). Starting on the Effective Date and continuing until the Foundation-selected vendor begins providing for CFM services to the entire Center Building, the Foundation will reimburse NARA 76.81% of the costs that cannot be assigned or apportioned.

Once the Foundation-selected vendor begins providing for CFM services to the entire Center Building, including the Bush Library, the Parties will be responsible for the costs of the CFM services as follows: NARA will be responsible for 23.19% of the total CFM services costs and the Foundation will be responsible for 76.81% of the total CFM services costs. Costs for work above the base CFM services contract will be specifically assigned to or apportioned between the Parties based on the actual costs incurred. Where specific costs cannot be assigned or apportioned, or equivalent services are being provided throughout the Center Building, the Parties will be responsible in accordance with the percentage above. Notwithstanding the foregoing, the Parties shall each be responsible for 100% of

any costs incurred because of any special cleaning or maintenance requirements associated with their respective areas.

Subsection b. of this Section describes a process under which the Parties may mutually determine to change the way CFM services are provided pursuant to this Agreement. Nothing in this Section is intended to preclude NARA from awarding and administering the CFM services contract for the Center Building as a result of that process.

The Parties shall confirm the percentages to be applied as of the Effective Date of this Joint Use Agreement and revise them as required by changing conditions (e.g., if NARA contracts separately for services in some or all of the NARA Areas of the Library Building).

- e. Assistant Facility Manager. The Foundation agrees to continue transferring funds to the Bush Library Trust Fund account sufficient to cover the salary and benefits of the current Assistant Facility Manager, the GS level of said position not to exceed General Schedule Grade 10, Step 10. The Foundation will transfer said funds to the Bush Library Trust Fund account in two installments to occur on October 1 and March 1 each year. At such time as the incumbent vacates his current position, NARA will have no obligation to replace him and the Foundation will have no further obligation to provide for the salary and benefits of the position. If NARA chooses to replace the Assistant Facility Manager, the replacement will be a NARA employee selected by the Library Director and hired in accordance with all Federal hiring requirements for career GS employees, and will be supervised by and report directly to the Facility Manager, unless otherwise directed by the Library Director. The salary and benefits of any new Assistant Facility Manager will not be funded by the Foundation. To the extent that the Foundation (or its contractors) has responsibility for maintaining or otherwise managing any Building operations related to the Library, the Assistant Facility Manager shall coordinate with Foundation personnel or contractors to address any such operational matters.
- f. Fountains. The Foundation shall be solely responsible for the maintenance and repair of the Freedom Plaza fountain. The notice requirements in paragraph g. of this Section apply to such work.
- g. Notice of Maintenance Affecting Library or Center. In performing their maintenance responsibilities under this Section, NARA and the Foundation will notify each other in advance of work to be done by contractors: (i) that could

affect the operation or performance of Library, Museum or Foundation equipment, systems, and utilities, including without limitation the fire suppression, security, mechanical, and electrical systems; (ii) that poses a threat to Center or Library occupants, visitors, or records or artifacts; or (iii) that could impair the Parties' use and enjoyment of the Center and the Library.

18. Security for the Center Building.

- a. General. This Section addresses the Parties' responsibility for Bush Library and Bush Center security services, including contract security guards and the security system in the Center Building. NARA has a statutory responsibility to protect President Bush's presidential records and historical materials and the presidential archival depository in which they are located. Therefore, NARA shall be responsible for providing trained security personnel, as it determines are necessary, for the entire Premises and shall bear the cost for same, except as provided in Paragraphs b. and f. of this Section. The Foundation has granted NARA access to the entire Bush Center for the purpose of maintaining security throughout the Premises in Section 5.c. of this Joint Use Agreement, including without limitation security guard posts at Bush Library and Museum entry points (e.g., the Front Lobby guard station). NARA will remain responsible for procuring security services for the Library, Center, and Premises. The Foundation understands and agrees that all security services on the Premises will be provided by independent contractors of NARA and that NARA will retain sole legal responsibility for the procurement, award, administration, and termination of security contracts, per the FAR.
- b. Foundation Guard Posts. There may be posts located in the Bush Center areas in the Center Building (hereinafter "the Foundation guard posts") that are required by the NARA security plan for the Bush Library and Bush Center. NARA shall provide the guards for these posts under the security contract. The Foundation may elect, at its sole discretion, to have additional Foundation guard posts in excess of the NARA security plan. The Foundation shall reimburse NARA for 100% of the cost of providing any of these additional guard posts that the Foundation elects to establish, but such guards shall be provided under the NARA security contract. The Foundation will reimburse NARA using the schedule mutually agreed to by the Parties. The Foundation and NARA shall consult on the statements of work for the Foundation guard posts prior to the commencement of individual procurement actions. The Parties agree that the purpose of this consultation will be to communicate to NARA the Foundation's expectations regarding the level and quality of services to be provided by the

guard contractor with respect to the Foundation guard posts. If the Foundation decides to reduce or eliminate the number of Foundation guard posts that it elected to establish, it will give NARA written notice of this decision at least 90 days prior to the beginning of an option year so that NARA can negotiate the necessary modifications to the security guard contract.

- c. Security System. As part of its responsibility to provide certain operating equipment as part of constructing the Bush Library, the Foundation has installed a security system in the Center Building that fully complies with NARA's architectural and design standards for Presidential libraries and can be monitored from the central guard office in the Building. NARA shall be solely responsible for making changes to the security system and shall be responsible for maintaining, repairing, and replacing it. The security system collects data (surveillance video, access control logs, etc.) from all areas of the Premises. The Foundation reserves for itself all rights and property interests in the data collected from the Bush Center portion of the Premises, and the Foundation shall reimburse NARA for its share of the cost of maintaining, repairing, and replacing the system.
- d. Contracting Independence. The Foundation understands and agrees that the security contract(s) negotiated or entered into by NARA must conform to Federal law and regulations, including without limitation the FAR. The Foundation further understands and agrees that any services it receives under the security contract, will be provided by an independent contractor of NARA and that NARA will retain sole legal responsibility for the procurement, award, administration, modification, and termination of said contract, including without limitation the right to assign or direct the work of contract employees as provided in the contracts.
- e. Coordination with SMU and Other Law Enforcement. In addition to any contractual arrangements it may have with SMU for security guard services, NARA shall be responsible for coordinating security of the Premises, including without limitation alarm, EMS, fire, and police response, public programs, special events, and threats to national security.
- f. Extra Security Costs. The Foundation will reimburse NARA, for 100% of costs and using the schedule mutually agreed to by the Parties, for any extra security requested by the Foundation in connection with Foundation activities and programs in the Library or the Bush Center. NARA and the Foundation will work together as needed to determine when such additional security is needed.

- g. Status of Foundation Employees, Volunteers, Contractors, Invitees. NARA and the Foundation will mutually agree on security rules that will apply to Foundation employees, volunteers, contractors, and invitees who have access to any part of the Library, including without limitation access to any part of the Library Secure Areas. NARA and the Foundation may set special rules for specific categories of employees (e.g., Café 43, the Courtyard Café, and Catering employees) who may then have access to any part of the Library in accordance with those rules. The Foundation agrees to take all necessary steps to ensure that its employees, volunteers, contractors, and invitees comply with the NARA security rules that are established, including rules relating to the use and display of identification and proximity badges. The Foundation will maintain accurate records on its employees, volunteers, and contractors, their duty stations, and their duties and will provide information from these records to NARA in response to reasonable, security-related requests and in a form that is mutually agreeable to NARA and the Foundation. However, the Foundation reserves for itself all rights and property interests in the records described in the preceding sentence. The Foundation shall be responsible for complying with any Federal, state, or local laws or regulations regarding background and security checks, to include the required costs, for their employees, volunteers, and contractors (e.g., rules for persons who have contact with children as part of their duties). The Foundation shall be responsible for complying with any Federal, state, or local laws or regulations governing the bonding or insuring of its employees, volunteers, and contractors.

19. Utilities.

- a. Reimbursement of Costs. NARA shall bear the cost of providing utilities and similar services to the Library. The Foundation shall bear the cost of providing utilities and similar services supplied to the Bush Center, including the Museum and other Foundation Reversionary Spaces, the Parking Areas, the other Improvements, and other parts of the Premises. The Foundation will, when agreeable to both NARA and the Foundation, award and administer the utility contracts for the Center Building, including the Museum, Café 43, the Courtyard Café and their support areas. NARA shall reimburse the Foundation for utilities as follows. Where utility costs can be specifically assigned to or apportioned between the Parties (e.g., because of separate metering), NARA shall reimburse the Foundation the actual costs it incurs or pay the bills directly. Where specific costs cannot be assigned or apportioned, NARA will reimburse the Foundation using the ratio of the total net usable square feet of the Bush Library areas,

divided by the total net usable square feet of the Center Building and the reimbursement schedule set forth in Section 19.b. below. Nothing in this Section is intended to preclude NARA from awarding and administering the utility contracts for the Center Building, when agreeable to both NARA and the Foundation. In that event, the Foundation shall reimburse NARA the actual costs it incurs or pay the bills directly and, if the utility costs cannot be specifically assigned to or apportioned between the Parties, the Foundation will reimburse NARA in accordance with the following formula: the ratio of the total net usable square feet of the Bush Center areas in the Center Building for which NARA provides utilities to the Foundation divided by the total net usable square feet of the Center Building.

- b. Method and Schedule of Reimbursement. No later than 60 business days after the receipt of invoices from its utility providers, the Foundation will issue a Bill of Collection to NARA for the amount owed based on the requirements set forth in paragraph a. of this Section. NARA agrees to transfer to the Foundation the amount stated on the Bill of Collection within 30 calendar days of receipt of such Bill. The Parties may enter into such separate agreements implementing this paragraph as they deem necessary or desirable, including changes to the method and schedule of reimbursement.

20. Repair of the Center Building.

- a. General. Except as the Parties may otherwise agree, NARA will be responsible for repairing the Bush Library, including without limitation the operating equipment under NARA's control (Sections 5.b., 15.a.) and those portions of the roof and exterior walls and surfaces of the Center Building covering the Library. The Foundation will be responsible for repairing the Bush Center, including without limitation the equipment under its control (Section 16), those portions of the Center Building covering the Bush Center, the Museum, the Fountains, Café 43 and the Courtyard Café, and the other Center Improvements, including without limitation the Parking Areas and Native Texas Park. The Foundation will, when agreeable to NARA and the Foundation, provide routine repair services to the Library (inside and outside) on a 100% reimbursable basis.
- b. Changes to Center Building. Absent an urgent and compelling security need where NARA determines a temporary change is necessary, NARA shall not make any of the following kinds of changes to the Center Building without a prior request to and written approval by the Foundation: (i) any changes to the

appearance or layout of the Center Building's exterior; (ii) any changes to the appearance or layout of the Library's interior that would be visible to persons outside the Center Building or from an area, space, or corridor inside the Building that is accessible to members of the public (e.g., the Main Floor corridor that provides access to the Research Room and classrooms); or (iii) any changes that directly affect the Foundation's side of a shared wall or surface (e.g., the "blast wall"), regardless of location within the Library. The Foundation shall complete its review of any request from NARA and respond with the Foundation's approval or disapproval, as the case may be, within 90 days of receiving the request, which approval may be granted or denied in the sole and absolute discretion of the Foundation. If the Foundation decides to deny a request, the Foundation's written determination shall set forth, with reasonable specificity, the basis on which the Foundation made such decision, but doing so shall not create any legal right to challenge the Foundation's decision or the exercise of its discretion. NARA may submit a revised request to satisfy any concerns set forth in the Foundation's written determination and such request will be reviewed in accordance with this paragraph.

- c. Architectural and Design Standards. All repairs to and renovations of the Library, whether interior or exterior, shall conform to the architectural and design standards promulgated by NARA for Presidential libraries and in effect as of the commencement of the work being done.
- d. State and Local Laws and Codes. When performing maintenance or making repairs or improvements to the Library, NARA shall give consideration to applicable state and local laws and regulations, including without limitation building and safety codes, as required by 40 U.S.C. § 3312. However, in accordance with the Constitution and Federal law, NARA shall be under no obligation to conform its actions to state and local laws and regulations, when such authorities impose a burden on NARA's lawful activities, or otherwise conflict with Federal laws, regulations, standards, or policies.
- e. Notice of Repairs, Renovations, and Maintenance. In performing repairs, renovations, and maintenance under this Joint Use Agreement, the Foundation and NARA will notify each other in advance of work to be done by contractors: (i) that could affect the operation or performance of the Library or the Bush Center, or Library or Foundation equipment, systems, and utilities, including without limitation the fire suppression, security, mechanical, and electrical systems; (ii) that pose a threat to Center or Library occupants, visitors, or records

or artifacts; or (iii) that could impair the Parties' use and enjoyment of the Center and the Library.

21. Information Technology Services and Support. NARA will bear the entire cost for the repair, renovation, maintenance, support, and upgrading of the Library's telephone, data communication, and information technology systems. The Foundation will bear the entire cost for the repair, renovation, maintenance, support, and upgrading of the Foundation's telephone, data communication, and information technology systems.
22. Library and Foundation Websites and Social Media. NARA and the Foundation operate separate websites and participate in separate, and different online platforms, including social media platforms. The Parties shall work together to develop online content regarding, among other things, the Library and its holdings, activities, policies, programs, and legal relationship with the Foundation. All online content that refers either directly or indirectly to a Party must be approved by that Party prior to posting on the other Party's website, social media, or other online platform. The Foundation and NARA agree to coordinate with each other to reduce confusion for researchers, visitors, and others with respect to functions (exhibits, websites, social media, and online public programs, including education) that are carried out by the Foundation and NARA after the Effective Date.
23. Museum Store. The Foundation operates the Museum Store, as well as associated online sales operations and any future catalog sales operations. The Foundation shall be responsible for all costs associated with these operations. The Foundation agrees to sell on NARA's behalf a limited amount of NARA and Trust Fund publications and special NARA-wide or Presidential Library products (e.g., exhibit catalogs) and to remit the net proceeds from such sales to the Trust Fund, subject to the availability of space in the Store and generally accepted business standards for salability, which decisions will not be made unreasonably. All other Museum Store revenues will be the property of the Foundation and will be deposited into the Foundation's accounts. The use of NARA's or the Library's names, seals, logos, or marks on Museum Store merchandise, or for Museum Store marketing or publicity purposes, including without limitation online and catalog sales, is subject to Section 14 of this Joint Use Agreement.
24. Café 43, Courtyard Café, and Catering.

- a. Operations. The Foundation operates a retail food and catering operation, Café 43, a second retail food operation, the Courtyard Café, and an event catering operation as part of the Bush Center. The Foundation shall be responsible for all costs associated with these operations. All Café 43, Courtyard Café, and Catering revenues will be the property of the Foundation and will be deposited into the Foundation's accounts. All cash registers, point of sale, inventory control, or other electronic systems used in Café 43 and Courtyard Café operations will operate as stand-alone equipment, or as part of a local area network maintained solely by the Foundation at its expense and without connection to or interoperability with NARA's voice and data communications systems.
 - b. Hours of Operation. The Foundation agrees to suspend Café 43 and Courtyard Cafe operations when requested by NARA for security, emergency, or law enforcement purposes.
25. Additional Parking. The Foundation and NARA will work together when additional parking is required near the Center. The Foundation and NARA shall coordinate additional parking requirements for joint events amongst themselves and with SMU, as well as related security requirements.
26. Liability.
- a. Assumption of Risk and Release by NARA. To the extent permitted by Federal law, including the Federal Tort Claims Act, NARA assumes, for the matters covered by this Joint Use Agreement, all risk of claims, losses, damages or injury suffered by persons or property that may be caused by the acts or omissions of NARA or its agents, servants, employees, independent contractors, volunteers, or invitees ("NARA Parties"), excluding claims, losses, damages or injury caused by the Foundation or its officers, directors, agents, servants, employees, independent contractors, volunteers, or invitees ("Foundation Parties"). The Foundation and the Foundation Parties shall not be liable for and are hereby released from any responsibility for any claims, losses, damages or injury caused by the act or omission of NARA, the NARA Parties, or any persons claiming through or under NARA.
 - b. Assumption of Risk and Release by the Foundation. The Foundation likewise assumes, for the matters covered by this Agreement, all risk of claims, losses, damages or injury suffered by persons or property that may be caused by the acts or omissions of the Foundation or the Foundation Parties, excluding claims,

losses, damages or injury caused by NARA or the NARA Parties. NARA and the NARA Parties shall not be liable for and are hereby released from any responsibility for any claims, losses, damages or injury caused by the act or omission of the Foundation, the Foundation Parties, or any persons claiming through or under the Foundation.

- c. Defense Costs. If NARA or the Foundation are named as a defendant in any suit brought against any Party in connection with the matters covered by this Joint Use Agreement, each Party will bear its own costs and expenses incurred in and associated with such suit. The Foundation acknowledges that, in accordance with Federal law, the Library is a self-insurer.

27. Non-Discrimination. All activities undertaken pursuant to this Joint Use Agreement will be in compliance with all Federal and, in the case of the Foundation, Texas laws and regulations prohibiting discrimination on grounds of race, color, national origin, handicap, religion, or sex in the provision of activities, facilities, and programs to the public.

28. Public Laws. Nothing contained in this Joint Use Agreement will be deemed to be inconsistent with or contrary to the purpose or intent of any Act of Congress or the laws of the State of Texas establishing, affecting, or relating to this Agreement.

29. Commitment of Funds. Nothing contained in this Joint Use Agreement will be construed as binding NARA to obligate or expend funds in advance of or in excess of available appropriations, or otherwise in a manner inconsistent with Federal law. Nothing contained in this Agreement will be construed as binding the Foundation to obligate or expend funds in advance of or in excess of available monies, or otherwise in a manner inconsistent with its charitable purposes. None of the Parties may obligate or disburse the other's funds.

30. Assignment of Interests. The Parties may not assign their rights or delegate their duties under this Joint Use Agreement without the other's prior written consent.

31. Force Majeure. None of the Parties to this Joint Use Agreement will have any liability to the other Parties for any delay or failure to perform, in whole or in part, or for any cancellation in connection with performance of any obligations hereunder, if such failure or cancellation is due to any cause beyond its reasonable control, including, but not limited to, acts of God, war, riots, civil disturbances, fires, floods, earthquakes, strikes, terrorist acts or credible threat of same, lock-outs, labor

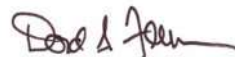
disputes, failures in public supply of utilities, pandemics, or any other causes beyond the control of the Parties, whether similar or dissimilar to the foregoing.

32. Exhibits to this Joint Use Agreement. All Exhibits attached hereto are incorporated herein as though fully set forth in the body of this Agreement. The Parties agree to ensure that accurate renditions of the Exhibits are prepared and included with this Agreement.
33. Amendments. This Agreement may be amended, modified, or waived only by written agreement, signed by the authorized representatives of the Parties.
34. Governing Law and Certifications. Each of the individuals signing this Joint Use Agreement certifies that he or she has legal authority to enter into this Agreement on behalf of his or her Party. This Agreement will be governed by and in accordance with the laws of the United States (without regard to conflicts of laws) and, in the absence of such law, in accordance with the laws of the State of Texas.
35. Date of Execution. This Joint Use Agreement will be considered executed on the date that the last Party executes it.
36. Communications. NARA and the Foundation agree to coordinate regarding communications to Congress or its staff regarding the terms and conditions of this Joint Use Agreement; and prior to the Effective Date, NARA and the Foundation shall have an opportunity to review and comment on any press release or other public disclosures or submissions relating to this Agreement prior to release or distribution.

To signify their agreement to the foregoing, the authorized representatives of the Parties hereunto affix their signatures.



KENNETH A. HERSH



DAVID S. FERRIERO

President and Chief Executive Officer For:
The George W. Bush Foundation

April 27, 2022

Date

Archivist of the United States and Chair of
the National Archives Trust Fund Board
For: National Archives and Records
Administration and the Trust Fund Board
4/27/2022

Date

EXHIBITS:

A—Premises Property Description—reference is made to Exhibit A to the Original Joint Use Agreement which is incorporated herein by reference

B –1-- NARA and Bush Center Building Spaces--on and after the Effective Date of the Joint Use Agreement (see attached)

National Archives Space			Bush Foundation Space		
NARA Sq/Ft Beginning Balance	60,972	43.26%	GWBF Sq/Ft Beginning Balance	79,969	56.74%
Permanent Exhibit Gallery (110)	(15,437)		Permanent Exhibit Gallery (110)	15,437	
Special Exhibit Gallery (107)	(4,670)		Special Exhibit Gallery (107)	4,670	
<i>Museum Exhibit Galleries</i>	<i>(20,107)</i>		<i>Museum Exhibit Galleries</i>	<i>20,107</i>	
Exhibit Production Space (084)	(675)		Exhibit Production Space (084)	675	
Paint Booth (085)	(64)		Paint Booth (085)	64	
Exhibit Design Space (086)	(944)		Exhibit Design Space (086)	944	
<i>Museum Support Spaces</i>	<i>(1,682)</i>		<i>Museum Support Spaces</i>	<i>1,682</i>	
Volunteer Lounge (130)	(679)		Volunteer Lounge (130)	679	
Volunteer Coordinator Office (131)	(128)		Volunteer Coordinator Office (131)	128	
<i>Volunteer Program Space</i>	<i>(808)</i>		<i>Volunteer Program Space</i>	<i>808</i>	
Classroom (113)	(1,264)		Classroom (113)	1,264	
Classroom Storage (113B)	(117)		Classroom Storage (113B)	117	
Situation Room (114)	(324)		Situation Room (114)	324	
Education Storage (118)	(132)		Education Storage (118)	132	
<i>Education Program Space</i>	<i>(1,837)</i>		<i>Education Program Space</i>	<i>1,837</i>	
Facility Manager's Office (080)	(243)		Facility Manager's Office (080)	243	
Assistant Facility Manager's Office (081)	(166)		Assistant Facility Manager's Office (081)	166	
CFM Contractor Office (082)	(168)		CFM Contractor Office (082)	168	
Management Suite (079)	(202)		Management Suite (079)	202	
Contractor Lunch Room (089)	(145)		Contractor Lunch Room (089)	145	
<i>Building Management Space</i>	<i>(924)</i>		<i>Building Management Space</i>	<i>924</i>	
SCIF Processing (067)	(659)		SCIF Processing (067)	659	
SCIF Research (069)	(144)		SCIF (069)	144	
SCIF Vestibule (066)	(159)		SCIF Vestibule (066)	159	
SCIF Holdings (070)	(1,967)		SCIF Holdings (070)	1,967	
<i>Miscellaneous</i>	<i>(2,929)</i>		<i>Miscellaneous</i>	<i>2,929</i>	
NARA Sq/Ft Ending Balance	32,686	23.19%	GWBF Sq/Ft Ending Balance	108,255	76.81%
NARA Change in Sq/Ft	(28,286)		GWBF Change in Sq/Ft	28,286	